

**Memphis and Shelby County
Metropolitan Government Charter Commission**

**Minutes
April 8, 2010
4:00 p.m.**

Commission members present:

Julie Ellis, Chairman
Andre Fowlkes, Vice Chairman
Lou Etta Burkins, Secretary/Treasurer
J. W. Gibson
Damon Griffin
Billy Orgel
Chris Patterson
Carmen Sandoval
Jim Strickland
Rufus Washington

Commission members absent:

Mayor Richard Hodges
Linda Kerley
Richard Smith
Dr. Randolph Meade Walker
Rev. Ralph White

Others present:

Bill Dries, The Daily News
Christy Kinard, Asst. Co. Attorney
Matt Kuhn, Asst. - County Mayor
Kelly Rayne, Asst. - Memphis Mayor
Mayor Keith McDonald, Bartlett
Darrel Cobbins, Rebuild Government
Regina Newman, Co. Trustee

Fred Jones, MLGW
Jack Payne, Asst. City Attorney
Stephen Wirls, Rhodes College
Kim Hackney, Sheriff's Office
Harvey Kennedy, Sheriff's Office
Davita Cruthirds

The meeting was called to order after a moment of silence.

Chairman Ellis called the roll and announced there was a quorum.

Approval of Minutes: Commissioner Strickland moved approval of the Minutes of the April 1, 2010, meeting. Commissioner Washington seconded. All Commissioners voted aye. The Minutes of April 1, 2010, are approved.

Administrative Update:

Mr. Matt Kuhn: Update on the task force will going out on April 9. Since we are meeting weekly, we are trying to send out the updates on Friday.

Chairman Ellis: The Commission is making every effort to get the reports out so that there is timely review. All of the task forces and support people are working very hard to get the information prepared and disseminated.

Christy Kinard, Asst. County Attorney: No updates.

Jack Payne, Asst. City Attorney: No updates.

Kelly Rayne, Asst. Memphis Mayor: No updates.

Ethics Task Force Report

Dr. Randolph Meade Walker: The Ethics Task Force reviewed the county and city charter provisions as well as the Ethics Ordinances of Germantown, Coral Springs, Florida (Malcolm Baldrige Quality Award winner), the City of Jacksonville and the City/County of Denver. The charter adopts the code, but the code provides for the Code of Ethics to be a first act of the Metro Council. The Code also directs the establishment and operation of an Ethics Commission which will provide ethics training and enforcement.

Recommendations:

1. Statement of Intent.
2. Ethics Code -- the code shall apply to every person involved, directly and indirectly, in the work of the Metro Government, including but not restricted to any and all employees, whether elected, appointed or otherwise hired; all unpaid personnel who have been elected or appointed; and any and all persons employed by or representing entities which receive payments, grants or privileges from the Metro Government.
3. Ethics Commission and Ethics Officer -- The Ethics Commission will assist or coordinate training and education of public officials and employees of the Metro government and have enforcement power. The Ethics Officer will provide legal advice and direction to the Commission on matters related to the Code of Ethics.
4. Acknowledgement and Training -- every public official and employee shall undergo ethics training and must acknowledge that they have received, read, understand and agree to be bound by the Code of Ethics.
5. Transition -- During the interim period between the effective date of the Charter and the adoption and implementation of the Ethics Ordinance (within the first 90 days after Council is sworn in), all public officials and employees shall be subject to the ethical standards referenced in Tennessee Code Annotated Section 8-17-101 et. seq.

Comm. Strickland made a motion to amend the language to indicate that the Ethics Commission be an unpaid position; seconded by Comm. Patterson. All voted aye.

Chairman Ellis: Agrees with Comm. Strickland. In fact, all commissions in our proposed language that we passed last week are unpaid.

Comm. Walker made motion to approve recommendations; seconded by Chairman Ellis, as amended. All vote aye.

Public Safety Task Force Report

Comm. Washington: All task force meetings were open to the public.

Entities involved with Public Safety: Police Dept., Sheriff's Dept.; Fire Dept., Ambulance Service, 911 Board, Public Safety Commission, Office of Preparedness (includes Homeland Security, Emergency Management, Urban Area Security Initiative).

Law Enforcement Task Force Recommendations:

1. Elected Sheriff to be chief law enforcement officer of the County. The Sheriff appoints a director of metro police services (or whatever the agency is called, to be determined by Charter) who will patrol and provide law enforcement (including areas formerly served by Memphis Police Dept.) except in incorporated municipalities who have opted out of Metro Government.
2. Fire Department -- consolidation of firefighting services of Shelby County and Memphis into a single department. The fire departments of incorporated municipalities "opting out" of the metropolitan government will continue to perform firefighting responsibilities in their areas.
3. Ambulance and Emergency -- Recommends ambulance and emergency medical services be provided by the metro government. Initially, ambulance and emergency medical services to be provided in-house within urban services district by consolidated fire dept. personnel and in the remaining areas (outside of incorporated municipalities opting out of the metro government) ambulance and emergency medical services continue to be provided under contract with private ambulance service. Consolidate firefighting services; merge Memphis and SC Fire Department. Municipalities that opted out of metro would provide their own fire departments.
4. Shelby Co. Office of Preparedness -- Recommend specific provisions in charter that Office of Preparedness falls under the public safety functions, duties and responsibilities. EMA responsibilities placed upon counties in Tennessee Code Annotated (TCA) Title 58 be consolidated fully within metro government. Office

of Preparedness should have administrative oversight of the general planning operations of homeland security of the county and Urban Area Security Initiative (UASI).

5. 9-1-1 Emergency Communications District -- Recommends no structural changes to the 9-1-1 Emergency Communications District -- Authorized by state statute. Dispatch functions should be able to adapt to law enforcement functions under metro government

Comm. Washington moved adoption of recommendations, seconded by Comm. Orgel.

Comm. Fowlkes: Please provide some background concerning operations of the Memphis Police Dept. currently and the Office of the Sheriff. How are these functions being done now? From the research, how effective are they today? And then, relative to your recommendation, what does this set the stage for?

Comm. Washington: Mark Luttrell has done a yeoman's job with the Sheriff's Dept. There have been many innovations, awards. Sheriff's Dept. and Police Dept. work well together. There are a number of things that the Sheriff's Office and the Police Dept. are already working on jointly, working as a unit. The Police Dept. also has a lot of positives. City needs to send a new message related to the effectiveness of the Memphis Police Dept. The Memphis police (approx. 2,300) cover about the same square miles (about 350) as New York City does with approximately 34,000 officers. Real time crime center works well. Currently there are two driving ranges, two shooting ranges, two training academies. Both entities doing good work, but there is room for improvement.

Chairman Ellis: For purposes of clarification, you and I had some dialogue about releasing to the Commission what Rebuild Government provided you and your task force with respect to Stephen Goldsmith's analysis of the opportunities. It was not sent to the Commission, but Christy is making copies of the document. It does have charts that provide some of the numbers. I think that is very helpful to the Commission to have for purposes of you answering those questions.

Comm. Walker: What is the rationale of the Sheriff appointing the police director?

Comm. Washington: If the Sheriff appoints the police director, then that director would report to the Sheriff. The model recommended by the Task Force was that the Sheriff would be the chief law enforcement officer and the Sheriff would appoint the police director.

Comm. Griffin: What was the rationale for that recommendation? Is there a confirmation process involved with the appointment of a police director by the Sheriff?

Comm. Gibson: Because the Sheriff was a constitutional officer, he was elected by the people and part of the requirement for being a Sheriff is certification, an educational

process. The Sheriff is really more of a professional lawman than what would be likely appointed by the mayor.

Comm. Griffin: What are the Sheriff's current responsibility and Memphis Police Dept., as it relates to the structure in Nashville?

Comm. Washington: He has law enforcement responsibilities for the entire county. He could patrol in Collierville. His jurisdiction is the entire county; but does not patrol the municipalities because Collierville, Bartlett and Germantown have their own police departments. He patrols in the unincorporated areas, including Lakeland and Arlington. He also has responsibility for the jail, court security, county school security and service of process. In Nashville, the sheriff has no law enforcement responsibility. He is responsible for the jail, court security, school security and service of process. The Task Force did not make a recommendation for a confirmation process for the Sheriff's appointment of a Police Director. In Jacksonville, the Sheriff is the chief law enforcement officer and appoints an under-sheriff, a police director and an under-director. Nashville's model is that there is a metro police department and the director of police is the chief law enforcement officer.

Comm. Gibson: We did not discuss the process for the police director appointment, but my personal thought was similar to what we are going to do as far as the process for the mayor and his appointments; directors would be confirmed by the council. Per Harvey Kennedy: A candidate for sheriff has to undergo a psychological test and a background check. But to serve as sheriff, you have to go through a full training course and become certified by the Peace Officers' Standards and Training Commission, a post commission which certifies all sworn law enforcement officers. He has a period of time in which he can complete that after being elected. It is a rigorous course of training that essentially qualifies you to be a sworn law enforcement officer. It involves learning the law; it is academic training and it also involves qualifications with firearms, with all types of weapons in order to become a policeman. Every sworn law enforcement officer in the state, whether police department officer, sheriff, campus police -- all of those are governed by that same peace officer standard of training commission. No law enforcement background is required. You must become qualified by going through the course of training. It is a minimum of 425 hours. The Sheriff's Dept. training for their sworn officers is about 800 hours. The current sheriff went through the minimum training at the State Training Facility. The Police Director would be required to go through similar training. Any sworn police officer is required to complete the training.

Comm. Orgel: Did the Task Force get input from the municipalities?

Comm. Washington: They were not personally invited, but all meetings were open to the public.

Comm. Griffin: Were there any representatives from the Memphis Police involved in the discussion as relates to this recommendation?

Comm. Washington: Jim Tusan represented the Memphis Police Dept.

Comm. Gibson: The Shelby Co. Fire Dept. has been in communication with the City's Fire Dept. for some time now around the concept of merger and there were also conversations held with Millington. I don't know of any conversations held with the suburban cities.

Comm. Strickland: Concerned about the issue of salary petitions. As I understand it now, the Sheriff and the court clerks have authority to do salary petitions. If they don't agree with the Commission on the budget, the Sheriff can file a petition with the court to override.

Robert Rolwing, Asst. County Attorney: Yes, the Sheriff and court clerks have salary petition authority. It is my understanding that you cannot change the authority for the court clerks because they are officers of the court. The constitutional officers, including the Trustee and Assessor would be subject to whatever language is in the charter.

Comm. Strickland: If Metro Sheriff is responsible for all law enforcement, that is going to be a huge budget. Currently, the Memphis police and fire budgets are approximately 65% of the city's budget. With the Sheriff having all law enforcement responsibilities, salary petition authority, and with a court dictating what the budget is going to be, may present a problem for the metro government. Mr. Rolwing advises that the authority for the Sheriff may be taken away in the charter. Commission requested a written opinion on whether that authority can be removed in the metro charter.

Comm. Ellis: We need that as regards all constitutional officers because the intent was to have them all subject to the budgetary limitations of the metropolitan government.

Ms. Kinard: You previously received an opinion from the Co. Attorney's office that the five constitutional officers remain as constitutional officers under a metropolitan form of government. The state statutes that apply to them would be the same and the salary petition statute would still apply. I don't believe that you can limit that by the metro charter. The only way that we were able to do that is under the county charter if we changed them to county charter officers which we did effective September 1, 2010, as to four of them and September 1, 2012 to the assessor.

Comm. Strickland: I believe in a strong mayor form of government and I think the public needs to hold one person accountable for the actions of city government and that includes police, fire, libraries, parks. The mayor should appoint the police chief.

Mr. Kennedy: The Sheriff's budget is approximately \$140 million; and the city has a budget of approximately \$200 million.

Comm. Strickland: If the police director is in charge of all policing, in theory, the sheriff's budget would decrease because some deputies police currently.

Comm. Griffin: Agrees with Comm. Strickland; believes mayor should be appointing authority for director of metro police.

Chairman Ellis: Did the task force consider the types of safeguards that Comm. Griffin is asking about such as a model where the mayor's appointee or the mayor and the sheriff collectively appoint the police director and confirmed by the council? When the mayor makes an appointment, the council vets the candidate and approves it. There does not appear to be that type of safeguard to the appointment by the Sheriff. If the Sheriff's recommendation which would consolidate functions and streamline redundancies of IT, motor pool, firing ranges -- good idea to consolidate, but for the purpose of police directing, what safeguards to appointments? Request that the legal staff look at salary petition issue with respect to all of the constitutional officers.

Comm. Gibson: As it relates to salary petition, we found ourselves with hands tied by the law. If the legal staff is able to come up with some way to put in charter that sheriff does not have salary petition authority, that will be great. Whether we allow the mayor or the sheriff to appoint the police director -- as it relates to the appointment process, the council should have the ability to weigh in on the final decision. Think about our current situation, in the county, the mayor has no say-so about who the sheriff is. The people elect that person and that person has the responsibility of providing law and security throughout the county. Another issue I have heard today is about the need for the police director and sheriff to be able to work together -- under this proposal, there is a better likelihood of them working together versus one appointed by the mayor and the county sheriff who is only responsible to the voters. You have two entities; one responsible to the will of the mayor and the other one responsible to his constituents. If we are looking for something more efficient, someone who has been elected to deal with law enforcement, who will have a better opportunity to focus in on that piece of business and be responsible to the constituents.

Comm. Patterson: With respect to coordination -- there would no longer be quite the emphasis on the need for coordination if all law enforcement falls under the sheriff.

Comm. Ellis: Comm. Nicely says he really liked the Nashville model because the sheriff took some of the political issues away from law enforcement, but it cost more. I listened to some of the interviews of the fathers of consolidation in preparing for the televised conference call on April 21 with the Nashville group. They asked what is a weakness of consolidated government. The answer was they pay too much because the sheriff and police director aren't together. The real view is of the sheriff being the elected law enforcement and people understanding that role. Have to give this a lot of serious thought. I would like to table this recommendation on law enforcement to give the Commissioners time to consider, look into the recommendations, as well as some of the documentation provided and take this up again at the next commission meeting.

Comm. Washington: Rebuild Government received some data (sample size and demographics unknown) that indicates that 53% said the sheriff should have the authority over the jail, summons and court security, but not policing. Policing should be

the job of the police director appointed by the mayor. Forty one percent said the sheriff should have the authority over policing, the jails, summons and serving papers and court security.

2. Fire Department Recommendations

Comm. Washington: There was a task force that was looking consolidating the Memphis and Shelby County fire department. When the mayor changed, that came to a halt. The two departments had no issues with consolidating. The Memphis Fire Dept. not only provides services to its citizens, it also has mutual aid agreements with the surrounding municipalities and with the region. Fire Chief Cash wrote a dissertation back in 1994 that talked about consolidating the fire departments.

Motion to approve fire department recommendations by Comm. Strickland; seconded by Comm. Burkins. All vote aye.

3. Ambulance and Emergency Medical Services

Comm. Strickland made motion to adopt recommendations; seconded by Comm. Burkins. Body voted aye.

Comm. Washington: There is a lot that Bob Nations' office does that I do not understand. The task force recommends elevation of the stature of the effectiveness of the office of preparedness by incorporating specific provisions in the metro government charter. Mr. Nations believes they need some visibility, but it is to be determined how we can put that into the charter.

4. Office of preparedness, EMA and UASI (to be included in public safety)

Chairman Ellis: With respect to designating it as an office where it is, are you satisfied with leaving that with the writing committee, assuming it is approved and then with bringing an option? Yes, per Comm. Washington.

Comm. Strickland makes motion to approve; seconded by Comm. Burkins. Body voted aye.

5. 9-1-1 Emergency Communication District

Comm. Washington: Shelby County 9-1-1 Emergency Communication District is a stand alone entity with an executive director and a board appointed by the mayor and approved by the council. Mayor Goldsmith recommended one Public Safety Answering Point (PSAP). Currently, if a call comes in to the unincorporated part of the county, it is answered by the sheriff. If it is a police issue, the sheriff will handle it; if it is fire-related, the call is transferred to the Fire Dept. If it is placed inside of Memphis, it is answered by the Police Dept. and if it is a police matter, the police handle it and if it is a fire issue, it is transferred to the Fire Dept. Under the metro government, and assuming that we

have consolidated fire and police departments, the call would go to one PSAP. The PSAP situation for the six suburban cities will not change, but the County (unincorporated areas) and the Memphis PSAP will consolidate into one.

Mayor McDonald, Bartlett: The District itself won't change. Bartlett has a PSAP (dispatch center). That is all the 911 Emergency Communication District set up by the State of Tennessee, set up by the State of Tennessee under state law; no matter what the charter says, the state is going to authority over local and metro. You are talking about dispatch functions, a totally different issue from the 911 Emergency Communication District. Their job is to dole out funds for the purpose of use of communication equipment and then it is up to PSAPs if they want to come together. If you were to consolidate some of the functions, they would automatically come together and you would have no need for additional PSAPs. Municipalities have authority to provide PSAPs. Millington does not have a fire PSAP, but do have a police PSAP. Bartlett has both and would probably want to continue as is in spite of the consolidated metro government.

Comm. Sandoval: The 911 Communications District board governs and oversees the PSAPs. They do all of the education campaigns; they maintain the equipment. The duties and powers and authorities of the 911 Communications District would stay the same. Who is going to answer the call is what is going to have to adapt depending on whether the police and sheriff's office consolidate and the fire departments consolidate.

Comm. Meade Walker: With this proposed structure, are we going to eliminate the confusion that results in people dying because nobody knows who's district in?

Comm. Washington: This area of government will improve with additional resources.

Mayor McDonald: Though consolidation might improve dispatch issues somewhat, it will not solve the problem of cell phones being used for emergency calls. There is technology to be launched by the state, possibly next year, and Shelby County will be one of the first areas to have it. The problem right now is that cell phone calls bounce off the closest unbusy tower. You will still have problems because where a cell phone call is coming from will still be unknown. The 911 Communications District has been doing education in the media about the need to tell dispatch exactly where you are calling from. The 911 Communications District is paid for by funds collected on everybody's telephone bill. Some people believe these funds would better be used for equipment (like the equipment that will allow PSAPs to know where a cell phone call is coming from) instead of the construction of a consolidated 911 center, even an earthquake safe building.

Chairman Ellis: In response to Comm. Sandoval's request that we table this and give this some thought, we will pick this recommendation up at the next Commission Meeting (on the 911 and the police).

Comm. Sandoval: I was under the understanding that the funding that the District got was administered by Mr. Chiozza's office. I didn't realize that there were other -- like building and --

Comm. Fowlkes: Aren't these questions for the new government to decide. We have to decide what to put in the charter versus what we are leaving out and hopefully the new government personnel will make the appropriate decisions. But we can put in a recommendation for the new government; not in the charter, but what we think is good. I don't think that every single aspect that we present a recommendation on is going to be a grand scenario to rejuvenate and bring about this perfect world. Hopefully there are going to be things that we can bring together, and the new government and the new division with the charter that is written can set the stage for some efficiencies and also maybe tackle some new things that we might not be able to tackle today, understanding that things are running pretty decently as they are, but can we improve upon that and will your recommendation allow for that.

Comm. Strickland moved to adopt the 911 Emergency Communications District recommendation; second by Comm. Griffin. All voted aye.

Chairman Ellis: We have tabled the sheriff and the police department structure.

Legislative Task Force Report

Comm. Strickland presents Legislative Task Force Recommendations.

Rebuild Government did a survey last week on three of our questions. Mr. Darrell Cobbins of Rebuild Government has those results. The input for this report was gathered from email surveys, Facebook surveys, website comments and group discussion and does not imply scientific validity.

1. Currently there are two different election approaches for the City of Memphis and Shelby County. The City of Memphis elections are non-partisan. All candidates for an elected office in the City of Memphis are listed on the ballot at the same time and there are no primary elections by political party. Shelby County has partisan elections. People run as members of a political party. In partisan elections there are primary races and the political party of the candidate is listed on the ballot. Do you prefer non-partisan or partisan elections?

Non-partisan came in at 73%. Partisan came in at 25%. No opinion had 2%.

2. Do you support term limits for the metro mayor and council?

Yes, one term, 4-year terms - 5%; Yes, two terms, total of 8 consecutive years - 75%; Yes, three terms, total of 12 consecutive years - 10%; no limit was 10% and no opinion was 5%.

3. The charter commission is considering an age requirements for metro mayor and council members. That means a candidate has to be a specified age before running for office.

No age restriction other than the minimum age to legally vote which is 18 years - 53%; no opinion was 5%; and yes, age restriction was 42%.

Comm. Strickland made motion to approve all recommendations except #5, seconded by Comm. Patterson. The Body voted aye.

Item 5 -- we voted on a recommendation for the name of the new metro government but that was before the procedure was put forth about the naming, so we can hold that.

1. The legislative body shall be the council. Approved with no questions.
2. The mayor and council shall be elected to four-year terms. Approved with no questions.
3. The mayor and council shall be limited to two consecutive four-year terms. Approved with no questions.
4. The council, as part time positions, will not be eligible for a pension by reason of their service as council members. Approved with no questions.
5. Skip (handled by another task force)
6. The council shall hold meetings on the first and third Tuesday of each month unless a majority of the council votes to change a meeting.

Chairman Ellis: Is that too prescriptive to name the date that you meet or is it common to other charters?

Comm. Strickland: It just lets the public know when we meet, but a majority of the council can change it.

7. The council will elect a chair for a term of one year.

Chairman Ellis: This precludes the discussion of a vice mayor or any potential there. Since that is an executive branch, can we hold that one out? The Nashville form that is a benchmark has the vice mayor as the chair of the council.

Comm. Strickland: We didn't take a vote on vice mayor, but we were unanimous in not wanting a vice mayor.

Chairman Ellis: I just want the commission to understand that if they approve this, we have precluded the vice mayor role. We have not appointed an executive task force to define the executive functions and we are basically doing that as we go in many ways; so I wanted to raise it as full disclosure to this commission that that is another form that we have been looking at. The vice mayor in Nashville is elected by the people at large and the vice mayor in Indianapolis is appointed by the mayor.

8. Special meetings may be called by the mayor or by a majority of the council upon 48 hours written notice to the council and public. Approved with no questions.
9. The council shall exercise its legislative authority through ordinance. Three readings are required. Approved with no questions.
10. The three members of the urban council must be council members and reside within the urban services district. They shall be elected by a majority of the council. The sole function of the urban council shall be to levy a property tax for urban services.

Comm. Strickland: The last sentence is required by state law. There has to be an urban council and their sole function is to levy a property tax for urban services. We have added in that those council members have to live in the urban services district and they shall be elected by a majority of the council. The number of three urban council members is directly from the state statute. There would not be two taxing districts. The tax rate is dictated by your budget. The budget will be voted on by the entire council as proposed by the mayor. After that, these three members will approve a tax rate that has already been really set. They will do the calculations.

11. Each council member must reside in the district for which he or she is running at the time of qualifying for elections and throughout the term. Approved with no questions.
12. The council shall have the following powers:
 - a) levy taxes
 - b) make appropriations
 - c) borrow money
 - d) purchase, own or lease real or personal property
 - e) fund public schools
 - f) make regulations on general health
 - g) approve appointments of the CAO and directors
 - h) approve the number of appointed positions not specified in the charter
 - i) approval all city contracts valued over an amount to be determined by the council
 - j) hear land use/zoning applications
 - k) approve or reject all land use/zoning ordinances
 - l) serve as appeals board for the Land Use Control Board
 - m) redistricting

- n) approve MLGW rates.

Asst. County Attorney Rolwing suggested the following additions to the above list but the Task Force did not vote on these, but would like to add them to the list to be approved by the commission.

- o) adopt metro budget
 - p) fix metro tax rates
 - q) may obtain an annual independent audit (this recommendation was changed to shall obtain audit)
 - r) power to grant franchises, none to exceed 30 years
 - s) approval of sale of real property
 - t) issue bonds and notes and other evidences of indebtedness
 - u) establish a pension and retirement system (this was amended to say pension or retirement system)
 - v) exercise all other authority of a legislative nature
 - w) all other powers of the metro government or by necessary implication vesting in another official.
13. No one may be qualified to run for office that is delinquent on the filing deadline in the payment of metro taxes owed by the individual. Mr. Rolwing will provide amended language to make this clearer.
14. A council member and mayor must live within the metro for at least one year before qualified to run.

Mayor McDonald: There is some concern in our communities the way this is written. When we talk about the municipalities as opting out, we need clarification and what that means and where that person lives and some definition on that.

Comm. Strickland: Well Bartlett would be in the metro area -- I guess maybe I should say Shelby County instead of metro.

Chairman Ellis: Is there any other way that commissions fill vacancies? Are there appointments by the mayor? Does not look like a very good system to me as a citizen.

Comm. Strickland: We have not studied any of the benchmark cities.

Comm. Gibson: This is different than the process the county used. This will keep us from getting bogged down. The process will simply involve the majority of those voting, rather than having to obtain the currently required seven votes.

Chairman Ellis: I ask that we table 16 because whenever you select a metro council member for two years that might represent a neighborhood or community, there might be a need for some kind of consultation process. Would like to know what goes on in the other benchmark cities to determine if there is a more responsive way.

Comm. Washington: The group that is being represented should have some say in who serves as representative.

Vote in favor of looking further into Item 16 with respect to filling vacancies – three

Comm. Patterson: The cost for special elections would be prohibitive for replacing vacancies. The three obvious ways to fill vacancies: appointment by mayor, appointment by the council or some group of citizens. Special elections are not economical feasible. The Body has more input just by virtue of numbers than a one vote mayor.

Comm. Griffin: The pool of applicants for a vacancy would come from the district and they would come before the council and probably speak before the council and present credentials so that the Body would be able to vet them as candidates.

Comm. Strickland: Right, it is an open meeting and the public can speak. If the vacancy is for more than two years, a special election will be scheduled.

Ms. Kinard: The Tennessee Constitution requires the county legislative body to fill vacancies in county offices. The municipalities are required to have special elections. This is an area that we will look at and give you advice on.

Chairman Ellis: Based on that, we will defer it and vote on it the next time.

Comm. Burkins: Will staggered terms address that at all?

Comm. Strickland: The way this is written is that you have the first election October 2011 and they would just go every four years after that. The reason I am opposed to staggered terms is because I don't think there is a reason for them. Neither the County Commission nor the City Council have ever had them. Elections would be in odd years and the metro elections would be the only ones on the ballot.

Chairman Ellis: Did the task force consider that perhaps you lose some of the knowledge base of the entity when you lose everyone every eight years?

Comm. Strickland: Being on the City Council is not brain surgery and it is not like you have to have some great knowledge of what is going on. In fact, I think new ideas actually help challenge the status quo.

17. To be elected, a candidate must receive over 50% of the vote. If no one receives a majority, a run-off shall be held 30 days later between the two top vote getters.

Comm. Burkins: I didn't really like this recommendation when I first read it. And maybe that works if you are assuming that we are going to have a non-partisan election. Think it is kind of limiting, depending on the number of candidates that you have.

Comm. Walker: I don't like it either. I think it is an unnecessary expense. We really need to look at unnecessary elections.

Comm. Strickland: Those are good points, I just think that somebody needs to get more than 13% to win an election.

Comm. Fowlkes: A lot of the questions we get from the public are about representation and will they be adequately represented in this new metro government. I think it is important to force people to make a decision, even if it is not their first decision, which is why I like how it is worded.

Comm. Patterson: It strikes me as a dangerous proposition to have a mayor who wins on 10%, 12%, 15% of the vote.

18. In the event the Office of Mayor becomes vacant, the City Council Chair would have the title of Mayor Pro Tem, shall serve up to 180 days if there is a general or municipal election to occur within that 180 day period. If there is no election scheduled, then a special election shall be held within 90 days of the vacancy.

Comm. Strickland: This is what the Professor Wirls and the City Charter Commission came up with last year. The mayor is important enough that you need to have a special election.

Professor Stephen Wirls: When Chairman Lowery became mayor pro tem following the resignation of Mayor Herenton last year, he was immediately challenged as to whether he could remain chair of the council and whether he could remain on the council. It needs to be clarified in this language. It was suggested as an alternative to the council appointing a temporary mayor that the CAO be appointed, but because the CAO is not an elected position, many did not want to use this process.

Comm. Walker: If someone is appointed and then decides to run for the position during the election, they have an unfair advantage. If there is going to be an interim mayor or council member, it should be crystal clear that that interim cannot run for the permanent. I would like to see the language put in the charter that the interim appointment will be ineligible to run for the office.

Comm. Fowlkes: Does not agree. If the interim person is qualified or perhaps the best person for the position, should be able to run for the office. If the citizens want to put the interim mayor in office, then ought to be allowed to do so. This person could be the person who is best qualified.

Comm. Washington agrees with Comm. Walker that having served in the interim slot gives the person an unfair advantage.

Ms. Rayne: Maybe there should be some language that would allow the person in the chairman's seat to decline to act as mayor should he be interested in running for the seat at the next election.

Professor Wirls: I would oppose anything that allows someone to decline, then you would have a process of needing to pick an interim, find some other way to fill the interim position. The Chairman becoming the Mayor Pro Tem is automatic, and won't require politics to enter into process.

Ms. Kinard: In addition to the five officers, we will also check for any Tennessee constitutional or statutory provisions that specifically apply to the mayor and legislative body of the metro government and let you know about those as well.

Comm. Patterson makes amendment to require that interim appointment cannot run in the next election.

Comm. Gibson: Cannot agree with the prohibition. Would like to see the recommendation remain as was brought forward from the task force.

Chairman Ellis: May we take 16 and 18 off the table for you all to think of because Comm. Patterson raised the whole issue of cannot run in filling vacancies on 16 which we have deferred in any case. Just for clarity, with all of the guidance from Professor Wirls and Kelly and Christy and the fact that Christy is looking at other things, that it might behoove us to put those two together.

19. The mayor shall have the power to veto council legislative action. A 2/3 majority of the council is needed to override a veto of the mayor. Approved without objections.

20. The elections shall be non-partisan. Approved without objections.

21. The minimum age for council and for mayor shall be the minimum age to vote.

Comm. Strickland: That is a good question and I originally had a minimum age in my proposal. Comm. Gibson convinced me otherwise by saying, letting the public decide.

Comm. Washington in support of no age limit. County needs fresh blood.

22. The council and the mayor shall not hold any other elected governmental position. This was changed to elected or metro appointed positions. Ms. Rayne: Sometimes state law requires that they be a member of certain boards and commissions as ex-officio members; sometimes as voting members. Suggest have legal look at that in the drafting committee just to double check.

Chairman Ellis: Unless it is a state requirement.

23. The compensation for council will be the amount paid to the current Shelby County Commission. The salary shall be reviewed every 10 years by the charter review board. The mayor's salary for the first term shall be \$174,000. The council shall have authority to set the mayor's salary and benefit package for the next term.

Comm. Strickland: The County Commission makes \$30,000 currently. To change that compensation, it would require a charter amendment. The mayor's salary could be set for the council for the next term, but for the very first term the salary would either be \$174,000 or \$160,000. The current city mayor makes \$174,000.

Chairman Ellis: The salary depends on how many members of the council there are and what that looks like in the cost. I asked the chamber to provide us benchmark information on salaries of their councils of the four cities as well as their mayor and package.

Comm. Strickland makes motion that the mayor's salary for the first term shall be \$174,000; seconded by Comm. Patterson.

Comm. Griffin: Is it required that we put an amount in the charter? Comm. Strickland: Not in current charter. When you are running for the job, you need to know what it pays.

Ms. Kinard will research how it was transitioned when the charter first came into being. Currently, the County Commission sets the mayor's salary and they have to set it before January of the year that there is an election. Comm. Strickland does not want the council to set its own salary and that is why he was putting it in the charter and if it needs to be raised, the public will vote on it.

Vote on mayor's salary at \$174,000 first term -- 3 opposed. Salary at \$174 passed.

Comm. Strickland made a motion for the remainder of Recommendation #25. The City Council can propose through ordinance a charter amendment at any time, so even though the task force recommended salary reviews for the council every ten years, the salary could be reviewed more often. Body voted aye.

24. The council has the authority to adopt rules of procedure. Approved without objections.
25. The council has the authority to employ and terminate council staff, including the council clerk.

The task force will come back with the districts and the size of the districts and the number of the districts at another time.

26. All courts of Shelby County shall take judicial notice of the metro charter and ordinances.
27. Courts should liberally construe this charter so as to grant the metro government all powers necessary and convenient for the conduct of its affairs.

Motion by Comm. Strickland, seconded by Comm. Patterson.

All recommendations with the exception of 5, 16 and 18 -- and the clarifications that Ms. Kinard will provide. All voted aye.

Items of Discussion for Next Meeting

Chairman Ellis: At this point, I want to remind everyone that next week we will take up the remainder of Comm. Washington's issues, the remainder of Comm. Strickland's issues as well as the Health Task Force and the Legal and Judicial Task Force which also includes the constitutional officers.

Comments from the Public and Organizations

None.

Other Business

Comm. Washington: There was a list of questions from the suburban mayors regarding public safety. Craig Willis, assistant county attorney, is working on answering those. Some of them will not be answered in respect to funding and taxation. Once he has completed his work, I will get those to the chair for distribution to the mayors and members.

Chairman Ellis: Comm. Strickland, I think there were questions about the Legislative Task Force too. Please take a look at those.

Adjournment

7:18 p.m.